



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

February 17, 2022

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Hoang Le**
Tax Registry No. 934090
Brooklyn Court Section
Disciplinary Case No. 2019-21194

The above named member of the service appeared before Assistant Deputy Commissioner Jeff S. Adler on December 1, 2021 and was charged with the following:

DISCIPLINARY CASE NO. 2019-21194

1. Said Police Officer Hoang Le, on October 23, 2019, while off-duty, in Groton, Connecticut, on the Naval Submarine Base New London, while assigned to the Military and Extend Leave Desk, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit, said Police Officer did wrongfully steal property consisting of one (1) patch valued at \$6.00 and one (1) knife valued at \$99.00 from the Main Navy Exchange.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

2. Said Police Officer Hoang Le, on October 23, 2019, while off-duty, in Groton, Connecticut, on Naval Submarine Base New London, while assigned to the Military and Extend Leave Desk, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that Police Officer Le provided misleading statements to the Internal Affairs Bureau Command Center regarding his arrest.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

In a Memorandum dated January 4, 2022, Assistant Deputy Commissioner Jeff S. Adler found Police Officer Hoang Le guilty, having pled guilty to all Specifications in Disciplinary Case No. 2019-21194. I have read the Memorandum and analyzed the facts of this matter.

I have considered the totality of the circumstances and issues concerning the misconduct for which Police Officer Le has been found guilty, and deem that separation from the Department is warranted.

I wholly agree with Assistant Deputy Commissioner Jeff S. Adler's reasoning regarding the imposition of the mitigated penalty prescribed under the Disciplinary System Penalty Guidelines in lieu of immediate dismissal. However, I determined that the penalty requires additional conditions not enumerated by Assistant Deputy Commissioner Adler.

It is therefore directed that an *immediate* post-trial settlement agreement be implemented with Police Officer Le in which he shall forfeit thirty (30) suspension days (already served), forfeit thirty (30) suspension days (to be served), be placed on one (1) year dismissal probation, forfeit all time and leave balances, and immediately file for vested-interest retirement.

Such vested-interest retirement shall also include Police Officer Le's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Police Officer Le does not agree to the terms of this vested-interest retirement agreement in lieu of dismissal as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY**.


Keechant L. Sewell
Police Commissioner



POLICE DEPARTMENT

January 4, 2022

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2019-21194
Police Officer Hoang Le	:	
Tax Registry No. 934090	:	
Brooklyn Court Section	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Javier Seymore, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Michael Martinez, Esq.
Worth, Longworth and London, LLP
111 John Street, Suite 640
New York, NY 10038

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Police Officer Hoang Le, on October 23, 2019, while off-duty, in Groton, Connecticut, on the Naval Submarine Base New London, while assigned to the Military and Extended Leave Desk, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit, said Police Officer did wrongfully steal property consisting of one (1) patch valued at \$6.00 and one (1) knife valued at \$99.00 from the Main Navy Exchange.

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PUBLIC CONTACT –
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2. Police Officer Hoang Le, on October 23, 2019, while off-duty, in Groton, Connecticut, on the Naval Submarine Base New London, while assigned to the Military and Extended Leave Desk, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that Police Officer Le provided misleading statements to the Internal Affairs Bureau Command Center regarding his arrest. *(As added)*.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on December 1, 2021. Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified on in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find that mitigation is warranted, and recommend a penalty of Forced Separation from the Department, as discussed below.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent admits that on October 23, 2019, he stole a \$6 patch and a \$99 work knife from a naval base store in Groton, Connecticut. At trial, he testified candidly about the circumstances surrounding his actions, and provided relevant background information to give context to what occurred.

Respondent testified that he joined the United States Navy in April 2001, three years before joining the Department. During his 20 years with the Navy, he was deployed multiple times to the Middle East, where he served as an explosive ordnance handler (loading and offloading missiles and bombs into a carrier strike group during Operation Iraqi Freedom), and provided force protection for the Navy's fleet in the United Arab Emirates. As of October 23, 2019, he was assigned as a funeral honors coordinator in Farmingdale, Long Island, and also was tasked with responsibilities as a drug and alcohol coordinator. (Tr. 18-22)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Tr. 21-22)

Additionally, shortly before this incident, [REDACTED]

Respondent was granted leave from the military to go to [REDACTED]

[REDACTED] to bring him back to New York, so that Respondent would be able to look after him. Respondent testified that on their way back to New York, they stopped at a naval submarine base in Groton, Connecticut, in order for Respondent to get some items he needed for his military assignment. Specifically, Respondent needed a patch, which was a requirement for his winter uniform, a buck knife, which was an essential working tool, and a chevron for his winter uniform. (Tr. 22-23, 32-33, 40-41)

Upon arrival at the base, Respondent's father went to the food court, while Respondent went to the Navy store. Respondent testified that he first purchased the chevron, for

approximately \$26.00. However, he could not afford to pay for the additional two items he needed, a \$6.00 patch and a \$99.00 knife. After paying for the chevron, Respondent retrieved a patch and a knife, and brought them inside the store's bathroom, despite clearly posted signs prohibiting such conduct. Inside the bathroom, Respondent removed the items from their packaging, and placed them in his pockets. He then exited the store, and walked to the food court to rejoin his father. While he was sitting there, a loss prevention officer from the store, who had witnessed Respondent's actions on the store's video surveillance, approached Respondent and asked him about the items he had taken. Respondent immediately conceded that he had taken the items, and handed them back to the officer. Respondent was issued a summons by the officer and released. (Tr. 23-25, 32)

After his release, Respondent returned home and promptly began to make notifications for what had transpired, both to the Navy and the Department. Respondent testified that he called IAB and informed them that he had been arrested for trying to steal items from the military store. He provided additional details regarding how he had taken the items into the bathroom without paying for them, but he did not describe how he left the store and was subsequently stopped at the food court. Respondent insisted it was not his intention to mislead IAB, and he believed he was following protocol by calling them to report his arrest for stealing. The parties stipulated that at his official Department interview, Respondent candidly provided a detailed description of what occurred. (Tr. 25-27, 36-39, 47-48)

According to Respondent, the Groton base referred the summons to Respondent's naval commanding officer, and the matter was resolved with a non-judicial punishment, which is comparable to a Department command discipline. His rank was temporarily reduced from Petty Officer Second Class to Third Class, his pay was reduced by 50 percent for two months, and he was placed on probation for six months. He also received counseling assistance, to help deal

with his personal issues as well as his financial difficulties. Respondent successfully completed the probationary period, after which he was restored to Petty Officer Second Class. In September 2020, Respondent retired from the Navy, and received an honorable discharge, as well as a command officer's recommendation to continue to serve in the Army National Guard.

[REDACTED]

[REDACTED] (Tr. 27-31)

In discussing his actions on October 23, 2019, Respondent explained that there was no one in his family to whom he could have turned for financial assistance, and that he did not have "the courage" to ask anyone for money. A year earlier, he had utilized the Navy and Marine Corps relief fund to help cover his basic living expenses, but that was a one-time option. Nevertheless, despite his difficult financial situation, Respondent acknowledged that his actions in this matter were unacceptable, stating, "I understand what I did, I own it, take full responsibility." (Tr. 31, 33-34)

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who has nearly 18 years of service with the Department, has pleaded guilty to stealing two items, with a total value of \$105.00, from a naval base store. He also has

admitted to making inaccurate statements¹ in his call to IAB, in that he did not provide a complete narrative regarding how he walked out of the store and to the food court with the items. However, it is undisputed that Respondent did promptly alert IAB that he had been arrested for stealing at the naval base, thereby providing the Department with notice to investigate further. He also made multiple other notifications to Department and naval personnel, suggesting that he was not intending to conceal what had occurred.

The Department Advocate has recommended that Respondent's employment be terminated. The presumptive penalty for conduct that constitutes petit larceny is Termination. However, the Disciplinary Guidelines also provide for a mitigated penalty of Forced Separation where appropriate. The Advocate argues that given Respondent's intent to steal in this case, the presumptive penalty should apply, and there should be no mitigation.

However, any case that involves petit larceny involves an "intent to steal" as one of its elements. As such, it would be unfairly restrictive to automatically preclude mitigation just because there is an intent to steal. Rather, the surrounding circumstances of each case should be evaluated in order to determine whether mitigation is appropriate. Indeed, as counsel for Respondent notes, there is case precedent where members of service who have been found guilty of larceny have been permitted to file for vested interest retirement in lieu of outright termination. See, e.g., *Disciplinary Case No. 2017-17713* (July 6, 2020) (Respondent permitted to immediately file for vested-interest retirement after having been found guilty of stealing sunglasses from a store).

Here, Respondent has pleaded guilty, and accepted responsibility for his actions. He testified that he understands that what he did was wrong, and that he "completely owns it."

¹ Although Specification 2 charges Respondent with providing "misleading statements," during closing arguments the Department Advocate stated that based on the evidence presented, Respondent's statements to IAB should instead be designated as "inaccurate statements." (Tr. 49-50)

Indeed, on the witness stand, Respondent came across as genuinely distressed about his conduct, stating that he “truly apologizes” for what he did.

Respondent credibly explained that he was dealing with some difficult personal issues, which clouded his judgment that day. [REDACTED]

[REDACTED] Respondent was experiencing financial hardship at the time, and could not afford to purchase all of the equipment that he needed for his naval assignment.

Nevertheless, Respondent readily acknowledges that none of those difficulties justified his conduct in this case, and there must be some accountability. Respondent does not argue that his lapse in judgment should be excused; rather, he asks only that the hardships he was dealing with be taken into account, as well as the fact that he already received some level of discipline from the Navy, which temporarily reduced his rank and pay, and placed him on probation for six months. Respondent also asks that his many years of service, both to this Department, and to the United States Navy, be considered as well.

Based on these factors, I agree with Respondent that the mitigated penalty should be imposed here. On the one hand, there is no dispute that Respondent’s actions in this case were egregious; stealing by a member of the service is unacceptable, and separation from the Department is warranted. However, in light of the particular circumstances of this matter, the mitigated penalty of Forced Separation, in lieu of termination, is appropriate. Accordingly, I recommend that the Police Commissioner direct an immediate post-trial settlement negotiation,

allowing Respondent to file for vested-interest retirement, along with whatever additional conditions the Police Commissioner deems appropriate.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED



FEB 17 2022
KERCHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER HOANG LE
TAX REGISTRY NO. 934090
DISCIPLINARY CASE NO. 2019-21194

Respondent, who was appointed on January 20, 2004, has almost 18 years of service with the Department. On his three most recent annual performance evaluations, he was rated “Exceeds Expectations” for 2020, and twice received 4.0 overall ratings of “Highly Competent” for 2015 and 2016. He has been awarded one medal for Excellent Police Duty.

In 2008, Respondent forfeited 25 vacation days after pleading guilty to failing to notify the Department when he was involved in an off-duty, out of state incident; identifying himself as a New York City police officer and displaying a duplicate shield while conducting personal business; wrongfully possessing a duplicate shield; engaging in unauthorized off duty employment and failing to surrender his firearm as required while on military leave.

In connection with the instant matter, Respondent was suspended from October 23, 2019 to November 21, 2019, after which he was placed on modified assignment. He remains modified to date.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials